

CHAPTER NO. 74

HOUSE BILL NO. 2421

By Representative Matheny

Substituted for: Senate Bill No. 2403

By Senator Cooper

AN ACT to amend Chapter 65 of the Acts of 1905; as reenacted by Chapter 273 of the Private Acts of 1959; as amended by Chapter 241 of the Private Acts of 1961; Chapter 125 of the Private Acts of 1967; Chapter 88 of the Private Acts of 1971; Chapter 204 of the Private Acts of 1972; Chapter 30 of the Private Acts of 1979, Chapter 52 of the Private Acts of 1981, Chapter 124 of the Private Acts of 1983; Chapter 169 of the Private Acts of 1986; Chapter 3 of the Private Acts of 1987; Chapter 41 of the Private Acts of 1987; Chapter 185 of the Private Acts of 1988; Chapter 35 of the Private Acts of 1989; Chapter 189 of the Private Acts of 1990; Chapter 151 of the Private Acts of 1994; Chapter 49 of the Private Acts of 1995; Chapter 167 of the Private Acts of 1996 and Chapter 51 of the Private Acts of 1997; and any other acts amendatory thereto, relative to the charter of the city of Manchester.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 65 of the Acts of 1905; as reenacted by Chapter 273 of the Private Acts of 1959; as amended by Chapter 241 of the Private Acts of 1961; Chapter 125 of the Private Acts of 1967; Chapter 88 of the Private Acts of 1971; Chapter 204 of the Private Acts of 1972; Chapter 30 of the Private Acts of 1979, Chapter 52 of the Private Acts of 1981, Chapter 124 of the Private Acts of 1983; Chapter 169 of the Private Acts of 1986; Chapter 3 of the Private Acts of 1987; Chapter 41 of the Private Acts of 1987; Chapter 185 of the Private Acts of 1988; Chapter 35 of the Private Acts of 1989; Chapter 189 of the Private Acts of 1990; Chapter 151 of the Private Acts of 1994; Chapter 49 of the Private Acts of 1995; Chapter 167 of the Private Acts of 1996 and Chapter 51 of the Private Acts of 1997; and any other acts amendatory thereto, being the charter of the City of Manchester, is amended by deleting such chapter, as amended, in its entirety and by substituting instead the following language to be the charter of the City of Manchester:

Section 1. The City of Manchester, in Coffee County, and the inhabitants thereof, be, and they are hereby, constituted a body politic and corporate, under and by the name and style of the City of Manchester, and shall have perpetual succession by their corporate name, may sue and be sued, plead and be impleaded, grant, receive, purchase and hold real, mixed and personal property, or dispose of the same for the benefit of said city.

Section 2. The corporate limits of the City of Manchester shall be those fixed by Chapter 65 of the Private Acts of 1905, all acts amendatory thereto, and any annexations or contractions of territory made pursuant to law.

Section 3. All powers granted to cities incorporated under the general law, Section 6-2-201, Tennessee Code Annotated, and to cities incorporated under the Uniform City Manager Charter, Section 6-19-101 through 6-19-105, Tennessee Code Annotated, and all general laws delegating powers to cities are hereby adopted by reference and made a part of this Act, and the repeal of any of these laws shall have no effect on this Act unless the repealing law expressly denies the power to cities. The City shall have power to punish as violation of a city ordinance with fine not to exceed fifty dollars (\$50.00).

Board of Mayor and Aldermen

Section 4. The elective offices of the City shall be that of Mayor and six (6) Aldermen. The Mayor and each of the six (6) Aldermen shall be elected from the City at large without regard to the ward in which any of them may live.

Any person eligible for the office of Mayor shall have his name placed on the ballot as a candidate upon filing with the County Commissioners of Election no later than twelve o'clock (12:00) noon, prevailing time, on the qualification date set by Tennessee Code Annotated § 2-5-101, a Qualifying Petition on a form obtained from the County Election Commission signed by the candidate and by not less than twenty-five (25) qualified voters of the city. The legal address of each of the signers shall be stated opposite his or her signature. Any person eligible for the office of Alderman shall be nominated in the same manner as a candidate for Mayor is nominated.

Every person entitled to vote for members of the General Assembly and other civil officers for the county or district in which he may reside or if a non-resident of the City but a resident of Coffee County and owning taxable real estate within the City, shall be entitled to vote for elective officials. The same qualifications for voting in all other City elections or referenda shall apply unless otherwise

specifically provided. Permanent registration to vote shall be as prescribed in Tennessee Code Annotated, except that in registering voters for City elections the County Election Commission shall use the qualifications as set out in the above paragraph.

The Commissioner of Elections of Coffee County shall hold an election on the first Thursday in August of each year, beginning in 1987, with the Mayor to be elected for a term of four (4) years, and two (2) Aldermen to be elected annually for terms of three (3) years each, and thereafter as the respective terms of office expire, to serve until twelve o'clock (12:00) noon on the Saturday following the first Thursday in August of that year. Should the County Election Commissioners fail to hold an election at the time specified, then they shall hold an election as soon thereafter as reasonably possible, notice of such to be given at least ten (10) days prior to the date of said election.

The County Election Commission shall hold elections for City officials and all other elections over which they have exclusive jurisdiction in such places in the City, during such hours, and in the manner prescribed by general law for holding regular and general elections for county, state, and national officials. Certification of results shall be as prescribed by general law. The candidate for Mayor receiving the highest number of votes shall be declared elected. The two (2) top candidates in number of votes received for Aldermen shall be declared elected.

It shall be unlawful for any candidate for office or any officer of the City, directly or indirectly, to pay, give, or offer to pay or to give, or promise directly or indirectly, money, office, position, employment, benefit, or any thing of value to any person, or to knowingly suffer any person to do so for the purpose of obtaining the political support, aid, vote, or influence of any voter or for obtaining his vote or influence against any opposing candidate. Any person violating this provision shall be punished by a fine of not more than fifty dollars (\$50.00) for each offense, and shall be disqualified from holding the office of Mayor or Aldermen for ten (10) years.

Elections for Mayor and Aldermen shall be non-partisan, and candidates shall be listed on ballots without indication of party affiliation.

The Board of Mayor and Aldermen of the City of Manchester, Tennessee, may direct the County Election Commission to place certain questions on the ballot to be submitted to the voters of the City of Manchester, Tennessee, on matters of general and vital concern in order to obtain the advice and direction of the voters as to such matters. Such referenda will be advisory in nature and nonbinding.

Section 5. The governing body of the City shall consist of a Mayor and six (6) Aldermen to be known officially as the Board of Mayor and Aldermen, hereinafter "legislative body".

To be eligible for and to hold the office of Mayor or Alderman, a person must be a citizen of the State of Tennessee, and the City of Manchester for one (1) year next preceding the day of the election and be at least twenty-one (21) years of age. No person shall be eligible for the office of Mayor or Alderman who shall have been convicted of malfeasance in office, bribery, or other corrupt practice, or crime, or violating any of the provisions of this Act, and if the Mayor or an Alderman shall be so convicted, he shall forfeit his office.

The Mayor and Aldermen shall take office at the next regular scheduled meeting of the Board of Mayor and Aldermen succeeding their election. The Mayor shall hold office for four (4) years and the Aldermen shall hold office for three (3) years or until their successors are elected and qualified. Nothing herein shall be construed to terminate or in any way effect the terms of the present office holders of the Mayor and Board of Aldermen. As a condition precedent to taking office, the Mayor and each Alderman shall take the following oath before the Finance Director or some other official authorized to administer oaths: "I do solemnly swear that I will perform with fidelity the duties of the office to which I have been elected, and which I am about to assume."

The compensation of the Mayor and Aldermen shall be set by ordinance, but no increase in compensation may be made effective during the terms of office of the present Mayor or Aldermen, and for at least six (6) months after its passage.

The Mayor or any Alderman may be removed from office by the legislative body for incompetency, neglect or disregard of duty, or other misconduct showing unfitness for public duty, by a majority vote of the entire membership of the legislative body. The proceedings for such removal shall be upon specific charges in writing, which, with a notice stating the time and place of the hearing, shall be served on the accused or published at least three (3) times in three (3) successive weeks in a weekly newspaper circulating in the City. The hearing shall be public and the accused shall have the right to appear and defend in person or by counsel and have process of the legislative body to compel the attendance of witnesses in his behalf. Such vote shall be determined by yeas and nays, and the names of the members voting for or against such removal shall be entered in the

journal. The Mayor shall have a vote to break a tie except where his own removal is before the legislative body.

The office of Mayor or Alderman shall be declared vacant by the Board of Mayor and Aldermen by reason of death, permanent disability, resignation, removal or failure to meet any of the qualifications of the above paragraph of this section, and shall be filled until the Saturday following the next regular city election by a majority vote of the remaining members of the legislative body. The Mayor shall have a vote in the event of a tie. No member shall vote for his own appointment to fill a vacancy.

At the next regular election after the vacancy, the seat appointed by the Board of Mayor and Aldermen shall stand for election for the remaining year(s) of the term that was vacated. The vacancy of an Alderman's seat shall be filled by the candidate for Alderman receiving the third highest number of votes in the next regular election since the persons receiving the first and second highest number of votes will have been elected to full three-year terms. The vacancy of the Mayor's seat shall be filled by the person receiving the highest number of votes for that office in the next regular election.

Section 6. The exercise of all powers granted in this Act or by general law is invested in the Board of Mayor and Aldermen of the City except as otherwise specifically provided. The legislative body shall speak solely through its minute entries which shall be authenticated by the presiding officer and Finance Director.

Regular meetings of the Board of Mayor and Aldermen shall be held at least twice each month, but the legislative body may provide by ordinance for as many other regular meetings as deemed necessary. The legislative body shall also fix by ordinance the hour at which regular meetings shall convene and the place at which meetings shall be held. Until changed by ordinance regular meetings shall be held at a time specified by Ordinance on the first and third Tuesday of each month. Regular meetings may be adjourned to any subsequent day of the week in which the meeting is held. Special meetings may be called by the Mayor or two (2) Aldermen by twenty-four (24) hours' notice, or shorter in case of an emergency, to the other members of the governing body served personally by the Mayor or one (1) of the Aldermen or by a police officer. The notice shall indicate in a general way the business to be considered and business not embraced in the call shall not be considered unless the Mayor and all Aldermen are present. All meetings shall be open to the public.

At the first regular meeting night in June, 1986, 1987, and 1988, and thereafter at the first regular meeting night in September, the legislative body shall elect one (1) of its members as Vice-Mayor. The Vice-Mayor so elected shall preside over meetings and act only in absence of the Mayor. In the absence of both the Mayor and Vice Mayor, the presiding officer shall be that Alderman chosen by a vote of the remaining Aldermen present. When either the Vice Mayor or chosen Alderman presides, he or she shall retain the right to vote.

The Mayor shall preside at all meetings. Four (4) Aldermen shall constitute a quorum, and no ordinance or resolution shall become effective unless it receives the affirmative vote of at least four (4) members of the legislative body. Except as otherwise provided in this Act, the Mayor shall have no vote except in the event of a tie. The legislative body may by ordinance or resolution, establish its own rules of procedure not inconsistent with this Act and prescribe civil penalties not exceeding fifty dollars (\$50.00) for non-attendance or disorderly conduct of its members.

Except as otherwise provided, ordinances shall be passed in the following manner. Every proposed ordinance shall be in writing with copies for the Mayor and each Alderman, and complete in the form in which it is finally passed, provided however, that amendments which do not materially change the ordinance may be made at any time before final passage, and amendments which materially change the ordinance as introduced shall not be made except by vote of five (5) of the Aldermen. After adoption of a Code of Ordinances, each of a general and permanent nature shall be adopted as amending and or adding a numbered section of the Code. Each ordinance shall be passed on three (3) separate days at a regular, adjourned or special meeting. In the first two (2) meetings, a brief summary shall be given of the proposed ordinance, and the meeting shall be open for questions and discussion of it. It shall be read in its entirety at the third meeting before passage. The record of how each Alderman voted, and the Mayor, if voting, shall be spread on the minutes. A summary of the material provisions of the ordinance shall be published in a newspaper circulating in the City and a notice that the ordinance is on file in the Finance Director's office for anyone wishing to see it. The effective date of the ordinance may be at any time within ninety (90) days of final passage, but in no case shall it be effective until such summary and notice are published. After passage, each ordinance shall be authenticated by the Mayor and Finance Director or in their absence, two (2) of the Aldermen, and placed in a binder. It shall not be necessary to copy the ordinance in the minutes, but reference to it shall be made in the minutes.

A resolution shall be passed by giving a brief summary and by reading the caption at any regular, adjourned, or special meeting. A separate binder may also be provided for resolutions in

which event they shall be authenticated as are ordinances, and their inclusion in the minutes dispensed within the same manner as ordinances.

Except as otherwise provided by general law the legislative body shall act only by ordinance or resolution. All action granting, renewing or extending public franchises; all legislation the violation of which will subject persons to fine, penalty or forfeiture; all legislation pursuant to the exercise of the police power; all action obligating the City on contracts involving amounts in excess of twenty-five thousand dollars (\$25,000); all action levying taxes or exacting fees; and all other action otherwise required to be by ordinance, shall be by ordinance. All other action may be taken by resolution.

Section 7. As a prerequisite to the collection of taxes, the governing body shall adopt annually a comprehensive budget which shall reasonably inform the taxpayers of the City of all estimated revenues by source and all funds which will be available for the coming fiscal year including all unexpended funds on hand at the end of the current fiscal year, and shall classify expenditures by major activities to inform the taxpayers of the purposes for which these revenues and funds are to be used during the coming fiscal year. The budget shall be based upon accurate and realistic estimates to be prepared and submitted to the Mayor by each department head and each chairman of an independent board for the department or board of the City government under his supervision. The Mayor shall, with the assistance of the Finance Director and by consultation with the Aldermen, chairmen of independent boards and finance committee, prepare a tentative budget ordinance.

The budget ordinance shall, after notice and public fiscal hearing, be finally adopted before the beginning of the fiscal year which shall be July 1 to June 30, and shall be summarized and published. Adoption of the budget ordinance shall constitute an appropriation of the amounts listed for the stated purposes and a levy of a property tax at the rate stated. Unless otherwise required by law or contract, the property tax shall be levied by a single rate, and all revenues shall be credited to the general fund.

No obligation shall be created or money spent to meet necessary expenditures in the current fiscal year until it shall have been determined that an appropriation in the annual budget has been made for that purpose and that there is unexpended in the appropriation for that purpose an amount sufficient to meet the obligation or to make the expenditure. Provided, however, the budget may be amended quarterly in the same manner in which the annual budget is adopted so as to change appropriations to meet changing conditions, subject to the following conditions: No change of appropriations shall be permitted if within ten (10) days of a public hearing to amend the annual budget a petition is filed with the Finance Director signed by ten percent (10%) of the registered voters of the City protesting any proposed change. Appropriations shall lapse at the end of the fiscal year, and all unexpended funds shall be reappropriated.

There shall be installed and maintained adequate accounting records in accordance with generally accepted principles of municipal accounting. Annual and monthly financial statements shall be prepared and constant and comprehensive budgetary control maintained. The same account titles shall be used throughout the accounting records, the budget, and the financial statements.

All disbursements shall be made by check signed by the Finance Director and countersigned by the Mayor or in his absence, by the vice mayor. The Finance Director shall determine that each claim against the City is correct and due and shall approve each invoice for payment.

The legislative body shall designate official depositories of City funds, and require such security as it deems necessary.

An audit of the financial affairs of the City shall be made each year by a certified public accountant skilled in such work. Each audit shall cover the period extending back to the date of the last preceding audit. Any taxpayer may file a bill in chancery court to compel the governing body to have the audit made.

All taxes due said corporation shall be due and payable on the first Monday in October of each year, and shall bear interest at the rate of one percent (1%) per month from March 1 following, and in addition a penalty of one half of one percent (1/2 of 1%) of each month the taxes are delinquent, to be added on the first day of each month, beginning March 1, as provided in Tennessee Code Annotated. That between the dates of February 1, and March 1, the Finance Director of the City shall deliver the delinquent tax list of all unpaid taxes to an attorney to be selected by the Board of Mayor and Aldermen of the City of Manchester, and it shall be the duty of said attorney to at once proceed to file suits in the Chancery Court of Coffee County, Tennessee, for the collection of said delinquent land tax. That upon the filing of the suits to enforce the tax lien, an additional penalty of ten percent (10%) upon all delinquent land taxes, shall accrue and the same is imposed upon the amount due from and delinquent to the municipality, which penalty shall be devoted to the enforcement of any

procedure of said suits and shall be allowed to the attorney filing the suits as compensation for his services.

Section 7A.

(1) As used in this section unless the context otherwise requires:

(a) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(b) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(c) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(d) "Transient" means any person who exercises occupancy or is entitled to occupancy for any room, lodgings or accommodations in a hotel for a period of less than ninety (90) continuous days.

(e) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(f) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(2) The Board of Mayor and Aldermen is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed six percent (6%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this Act.

(3) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel and to be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the city.

When a person has maintained occupancy for ninety (90) continuous days, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the city.

(4) The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the town to the Finance Director or such other officer as may by ordinance of the legislative body be charged with the duty of collection thereof, such tax to be remitted to such officer not later than the twentieth day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient; then the obligation to the city entitled to such tax shall be that of the operator.

(5) The Finance Director or other authorized collector of the tax authorized by this Act shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the Finance Director by the operator with such number of copies thereof as the Finance Director may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the Finance Director and approved by the legislative body prior to use. The Finance Director shall audit each operator in the town at least once per year and shall report on the audits made on a quarterly basis to the legislative body. The legislative body is hereby authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this Act.

(6) No operator of a hotel shall advertise or state in any manner whether directly or indirectly that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

(7) Taxes collected by an operator which are not remitted to the Finance Director on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and in addition for penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is hereby declared to be a violation of this section and such operator shall be punishable by a fine not in excess of fifty dollars (\$50.00).

Each occurrence of knowing refusal of an operator to collect or remit the tax or knowing refusal of a transient to pay the tax imposed is a fifty dollar (\$50.00) fine. Each occurrence shall constitute a separate violation. As used in this paragraph "each occurrence" means each day.

Nothing in this section shall be construed to prevent the Finance Director or other authorized collector of the tax from pursuing any civil remedy available to the collector by law, including issuing distress warrants and the seizure of assets, to collect any taxes due or delinquent under this section.

(8) It shall be the duty of every operator liable for the collection and payment to the City of any tax imposed by this Act to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as such operator may have been liable for the collection of and payment to the City which records the Finance Director shall have the right to inspect at all reasonable times.

(9) The Finance Director in administering and enforcing the provisions of this Act shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law for the county clerks.

For services in administering and enforcing the provisions of this Act, the Finance Director shall be entitled to retain as a commission one percent (1%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, it being the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this Act. The Finance Director shall also possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, for the county clerks with respect to the adjustment and settlement with taxpayers all errors of taxes collected by him under authority of this Act and to direct the refunding of same. Notice of any tax paid under protest shall be given to the Finance Director and the ordinance authorizing levy of the tax shall designate an officer against whom suit may be brought for recovery.

(10) The Finance Director is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in such fund as the legislative body may specify by ordinance.

Section 8. The city government shall be organized into such departments as the legislative body thinks is in the best interests of the city. The legislative body by ordinance may establish, abolish, merge or consolidate offices, positions of employment, departments and agencies of the city, may provide that the same person shall fill any number of offices and positions of employment, may transfer or change the functions and duties of offices, positions of employment, departments and agencies of the city as the legislative body may deem is in the best interests of the city, and the control and operation of any utility may be delegated to an independent board or boards, the membership, appointment, tenure, duties and salaries of members to be provided by ordinance; and this authority shall extend to independent boards of joint ventures with other political subdivisions of the State where by agreement the board shall be composed of members appointed by the legislative body and members appointed by other political subdivision. Such agreement may be made irrevocable except by consent of the parties.

The Mayor shall from time to time, at least once every three (3) months, submit to the legislative body information relative to the condition of the City, and shall recommend for its consideration such measures as he may deem expedient for the interest and general welfare of the City and its inhabitants. He shall see to the enforcement of the laws of the City and to the preservation of the health and peace and quiet of the people. In the absence of the Mayor, the Vice Mayor shall perform the duties of the Mayor.

In addition to the offices required by this Act, the Board of Mayor and Aldermen may create such offices and positions of employment as deemed necessary for efficient operation of the City, and shall fix the compensation for offices and positions created. The compensation of all officers and employees shall be in form of fixed salaries or wages, and all fees collected shall be paid into the City treasury. All officers and employees shall give bond acceptable to and in an amount to be determined by the legislative body. The cost of bonds of officers and employees may be made an expense of the City and instead of individual bonds, a blanket bond may be used. All officers whether their offices are provided by this Act or the legislative body shall before entering upon the duties of office take oath required of the Mayor and Aldermen. Vacancies shall be determined and unexpired terms filled by the legislative body in the same manner as original appointments. All officers of the City shall serve at the will of the legislative body and may be removed by the majority vote of the entire membership of the legislative body; provided, however, that an officer may not be removed within twelve (12) months from the date on which he assumed his duties, except for incompetence, malfeasance, misfeasance, or neglect of duty. In case of removal within that period, he may demand written charges and a public hearing thereon before the Board of Mayor and Aldermen prior to the date on which his final removal shall take effect; but the decision and action of the legislative body on such hearing shall be final, and pending such hearing, the legislative body may suspend him from duty. Other offices may be created by ordinance whereby the officer also shall serve at the will of the legislative body. In the temporary absence of any officer other than Aldermen or officers of independent boards, the Mayor shall be authorized to appoint some qualified person to serve temporarily.

City Judge

Section 9. The office of City Judge is hereby established. The City Judge shall constitute the City Court and shall be appointed by the Board of Mayor and Aldermen and be classified as an officer of the city and shall serve at the will of the legislative body.

The jurisdiction of the City Judge shall extend to the trial of all offenses against the ordinances of the City. He shall have power to issue all necessary process to administer oaths, and maintain order. The legislative body shall by ordinance define what acts and conduct in the presence of the Court shall be offenses and contempt under the ordinance.

Fines, forfeitures and costs may be paid by installments to be fixed and security determined as provided by ordinance. The City Judge shall receive no other compensation for the performance of his duties as City Judge than the salary fixed by ordinance and all fines, forfeitures, costs and other revenues of the Court shall be paid into the treasury of the City. A monthly report shall be made to the legislative body of all revenues of the Court.

The City Judge shall keep a docket of all cases handled by him.

The City Judge shall be exclusive judge of the law and the facts in every case before him, and no official or employee of the City shall attempt to influence his decision except through pertinent facts presented in Court.

The Mayor or someone appointed by him may act as City Judge during the absence of the City Judge.

Notwithstanding any provision of law to the contrary, contempt of court shall be punishable by a fine in the amount of fifty dollars (\$50.00), or such lesser amount as may be imposed in the Judge's discretion.

Chief of Police

Section 10. The office of Chief of Police is hereby established. The Chief of Police shall be appointed by the Board of Mayor and Aldermen and shall be classified an officer of the city and shall serve at the will of the legislative body. The bond of the Chief of Police shall in no event be fixed at less than two thousand five hundred dollars (\$2,500). The Chief of Police is vested with all power and authority to execute criminal process against persons charged with the violation of any ordinance of the City of Manchester and process in all civil cases wherein the corporation is plaintiff. The Chief of Police shall have supervision over all policemen, the investigation of crimes, the enforcement of the state laws and city ordinances, the power to establish training programs, maintain records, provide traffic control and establish rules, regulations and policies of the department.

If the Chief of Police is not present, then the Assistant Chief, or in his absence an appointee of the Safety Committee, shall be designated to act in the capacity as chief.

Finance Director; Independent Boards

Section 11. The office of Finance Director is hereby established. The Finance Director shall be appointed by the Board of Mayor and Aldermen and shall be classified as an officer of the

city and shall serve at the will of the legislative body. The salary of the Finance Director shall be as fixed by ordinance.

The immediate responsibility for the administration of all financial affairs of the City shall be that of the Finance Director. This person shall collect all taxes and receive all revenues, have custody of all funds and make all disbursements. The Board of Mayor and Aldermen may authorize any independent boards operating a utility, and make all necessary and authorized disbursements. Reports may be either directed to the Board of Mayor and Aldermen or to the Finance Director to be incorporated with other financial reports.

The Finance Director shall perform all clerical duties not delegated to another officer or employee. This person shall act as clerk and secretary and shall attend all meetings of the Board of Mayor and Aldermen, and shall have custody of all public records and bonds. The legislative body may by ordinance provide a schedule of fees which the Finance Director shall charge for official services to individuals not given to the public generally.

Director of General Services

Section 12. The office of Director of General Services is hereby established. The Director of General Services shall be appointed by the Board of Mayor and Aldermen and shall be classified as an officer of the city and shall serve at the will of the legislative body. The Director of General Services shall supervise and coordinate city shop, humane office, street and garbage activities. He shall be directly responsible to the Board of Mayor and Aldermen and shall perform such additional duties as may be required of him by the legislative body.

Fire Chief

Section 13. The office of Fire Chief is hereby established. The Fire Chief shall be appointed by the Board of Mayor and Aldermen and shall be classified as an officer of the city and shall serve at the will of the legislative body.

The Fire Chief may designate or grant particular authority to ranking members of the department as may be necessary for the efficient administration of the department. The Fire Chief has the ultimate responsibility of the fire department for the preservation of life and property, and the prevention of fires. The chief shall direct the proper assignment of officers, establish training programs, maintain records, establish rules, regulations and policies and shall coordinate with the Board of Mayor and Aldermen or its Safety Committee on matters pertaining to the fire department.

If the Fire Chief is not present, then the Assistant Chief, or in his absence, an appointee of the Safety Committee, shall be designated to act in his capacity as chief.

Director of Parks and Recreation

Section 14. The office of Director of Parks and Recreation is hereby established. The Director of Parks and Recreation shall be appointed by the Board of Mayor and Aldermen and shall be classified as an officer of the city and shall serve at the will of the legislative body.

The Director of Parks and Recreation shall be in charge of the city recreation program, including the planning, direction, inspection and reviewing of park, playground, swimming pool recreation center and maintenance activities of the parks and recreation department.

Director of Water and Sewer

Section 15. The office of Director of Water and Sewer is hereby established. The Director of Water and Sewer shall be appointed by the Board of Mayor and Aldermen and shall be classified as an officer of the city and shall serve at the will of the legislative body.

The Director of Water and Sewer Department shall have the responsibility of fiscal and personnel management of the department, the development and supervision of utility planning, construction and rehabilitation, and of insuring that the department is operated in full compliance with local, state and federal regulations.

City Attorney

Section 16. The office of City Attorney is hereby established. The City Attorney shall be appointed by the Board of Mayor and Aldermen and shall be classified as an officer of the city and shall serve at the will of the legislative body.

The City Attorney shall be responsible for all legal aspects of the city government.

Board of Education, Director of Schools, etc.

Section 17. There shall be a Board of Education composed of five (5) members. To be eligible for service on the Board of Education, the person must be a resident and qualified voter of the City, and elected in the same manner as the Mayor and Aldermen and from the City at large without regard to the district in which any of them may live, to take office at the next meeting of the Board of Education following the election.

Each member of the Board of Education shall serve for a term of four (4) years, or until his or her successor is appointed and qualified, with seats 1 and 2 elected in 1995, and seats 3, 4 and 5 elected in 1997, and thereafter every four (4) years on a staggered term basis. The Board of Education shall receive such compensation as provided by ordinance. Before taking office, members of the Board of Education shall take the same oath prescribed for the Mayor and Aldermen and shall be subject to removal for the same causes. Vacancies shall be determined by the Board of Mayor and Aldermen in the same manner as a vacancy on that Board.

The Board of Education shall provide for its own organization and rules of procedure, and shall keep a record of all its proceedings.

The Board of Education shall have control over the operation and maintenance of the school system and school property. At the beginning of each school year the Director of Schools shall submit to the Board of Mayor and Aldermen a maintenance plan which shall contain details and responsibilities of the maintenance of the physical plant of all facilities in the system. The schools shall at all times be operated and maintained so as to meet the requirements of State law provided for municipal Boards of Education. The Board of Education shall submit its portion of the City Budget to the Mayor and Board of Aldermen as provided in Section 7 of the Act. Within the limitations of the City budget, the Board of Education shall have the power to employ teachers and such other persons as in its discretion is necessary for the efficient operation of the schools, to fix their compensation, and to make all other necessary expenditures.

The Board of Education shall appoint a Director of Schools who shall be a person of education and experience, capable of performing functions imposed on municipal directors of schools by State law. Beginning in the year 2000, the Board of Education may employ a Director of Schools under written contract of up to four (4) years, which may be renewed if the Board of Education so desires. Compensation and other matters relating to the Director of Schools shall be made as may be determined by resolution of the Board of Education provided, however, the Board of Mayor and Aldermen are informed of the details of such a resolution.

The Board of Education shall have the authority to purchase, sell or transfer school property. However, the erection of any classroom or other facility which shall house students shall be subject to the approval of the Board of Mayor and Aldermen. All bonded indebtedness or other borrowing shall be by the action of the Board of Mayor and Alderman upon recommendation of the Board of Education.

All children who are now or may hereafter be entitled under the laws of the State of Tennessee to attend the public schools in Coffee County and who reside within the corporate limits of the City of Manchester shall be entitled to attend city schools. Children living outside the City of Manchester may attend city schools under the terms and conditions of a tuition policy set by the Board of Mayor and Aldermen after consultation with the Board of Education. Said tuition shall be set with the passage of the annual budget of the City of Manchester and shall be valid for that fiscal year only. The number of such children paying tuition shall not exceed twenty percent (20%) of the total enrollment for the system at any time during the regular school year. At the beginning of each school year the Director of Schools shall submit a report on the number of such children to the Board of Mayor and Aldermen. The report shall contain the number of such children per classroom and grade level.

Receipt, custody and accounting for all school funds shall be the duty of the Finance Director. School funds shall be disbursed by the Finance Director only upon an order signed by a person authorized by the Board of Education. The Finance Director shall make required financial reports and any other reports requested by the Board of Education, and shall segregate school funds as required by law or ordinance.

Section 18. Competitive bidding and purchasing procedures shall be established by Ordinance in accordance with state law.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Manchester. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Manchester and certified to the secretary of state.

SECTION 4. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 3.

PASSED: May 27, 2005


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 17th day of June 2005


PHIL BREDESEN, GOVERNOR